Supreme Court, U.S.
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In The

Supreme Court of the United States

October Term, 1988

FREDERICK P. SINGER, Administrator of the Estate of FREDERICK P. SINGER, JR., deceased and ROBBINS INVESTMENT CORPORATION,

Petitioners,

v.

GENERAL MOTORS CORPORATION and BRONSBERG & HUGHES PONTIAC INC. and FREDERICK BALL, ROBBINS DOOR & SASH CO. and ROBBINS INVESTMENT CORP.,

Respondents.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF PENNSYLVANIA

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QUESTION PRESENTED FOR REVIEW

Whether Federal Rule of Evidence 803(8)(C) requires the trial judge in a state court proceeding to admit into evidence the investigative file of the National Highway Traffic Safety Administration containing an assortment of consumer complaints asserting the existence of a defect in a power steering system similar to that alleged to have caused the motor vehicle accident giving rise to this litigation?

SUBSIDIARIES AND AFFILIATES OF GENERAL MOTORS CORPORATION

General Motors Corporation is not a subsidiary of a publicly owned corporation. All subsidiaries and affiliates of General Motors Corporation are wholly-owned except:

AeroVironment Inc. (USA)

Alambrados Automatrices, S.A. de C.V. (Mexico)

Alambrados y Circuitos Electricos, S.A. de C.V. (Mexico)

AMBRAKE Corporation (USA)

Applied Intelligence Systems, Inc. (USA)

Aralmex, S.A. de C.V. (Mexico)

Automotive Polymer Based Composites Joint Venture and Development Partnership (Co-Partnership among GM, Ford and Chrysler to coordinate basic research on plastic component materials)

Autos y Maquinas del Ecuador S.A. (AYMESA) (Ecuador)

Avis, Inc. (U.S.A.)

Bujias Mexicanas, S.A. de C.V. (Mexico)

Cableados de Juarez, S.A. de C.V. (Mexico)

CABLESA-Industria de Componentes Electricos Limitada (Portugal)

Calsonic Harrison Co., Ltd. (Japan)

Comau Productivity Systems, Inc. (USA)

Compagnie de Faisceaux Tunisian International S.A. (Tunisia)

SUBSIDIARIES AND AFFILIATES OF GENERAL MOTORS CORPORATION (Cont.)

Compania Nacional de Direcciones Automotrices, S.A. de C.V. (Mexico)

Componentes Delfa, C.A. (Venezuela)

Componentes Mecanicos de Matamoros, S.A. de C.V. (Mexico)

Conductores y Componentes Electricos, de Juarez, S.A. de C.V. (Mexico)

Convesco Vehicle Sales GmbH (West Germany)

Daewoo Automotive Components, Ltd. (Korea)

Delco Electronics Corporation (USA)

Delkor Battery Company, Ltd. (Korea)

Delmex de Juarez, S.A. de C.V. (Mexico)

Delredo, S.A. de C.V. (Mexico)

Detroit Deere Corporation (USA)

Detroit Diesel Corporation (USA)

DHB – Componentes Automotivos S.A. (Brazil)

DHMS Industries, Ltd. (Korea)

Diffracto Limited (Canada)

DR DE CHIHUAHUA, S.A. de C.V. (Mexico)

Ensamble de Cables Y Componentes, S.A. de C.V. (Mexico)

Fabrica Columbiana de Automotores S.A. ("Colomotores") (Colombia)

General Motors do Brasil, Ltda. (Brazil)

General Motors de Colombia S.A. (Colombia)

SUBSIDIARIES AND AFFILIATES OF GENERAL MOTORS CORPORATION (Cont.)

General Motors del Ecuador S.A. (Ecuador)

General Motors de Mexico, S.A. de C.V. (Mexico)

General Motors Egypt, S.A.E. (Egypt)

General Motors Espana, S.A. (Spain)

General Motors (Europe) AG (Switzerland)

General Motors France (France)

General Motors Hellas, A.B.E.E. (Greece)

General Motors Iran Limited (Iran)

General Motors Kenya Limited (Kenya)

General Motors del Peru S.A. (Peru)

General Motors de Portugal, Limitada (Portugal)

Genie Mecanique Zairose, S.A.R.L. (Zaire)

GM Allison Japan Limited (Japan)

GMFanuc Robotics Corporation (USA)

Hua Tung Automotive Corporation (Rep. of China)

IBC Vehicles Limited (England)

Ilmor Engineering, Ltd. (England)

Industries Mecaniques Maghrebines, S.A. (Tunisia)

Industrija Delova Automobila, Kikinda (Yugoslavia)

INLAN-Industria de Componentes Mecanicos, Lda. (Portugal)

Isuzu Motors Limited (Japan)

Isuzu Motors Overseas Distribution Corp. (Japan)

SUBSIDIARIES AND AFFILIATES OF GENERAL MOTORS CORPORATION (Cont.)

Kabelwerke Reinshagen GmbH (West Germany)

Kabelwerke Reinshagen Werk Berlin GmbH (West Germany)

Kabelwerke Reinshagen Werk Neumarkt GmbH (West Germany)

Koram Plastics Company, Ltd. (Korea)

Metal Casting Technology, Inc. (USA)

Motor Enterprises, Inc. (USA)

New United Motor Manufacturing, Inc. (USA)

NHK Inland Corporation (Japan)

Omnibus BB Transportes, S.A. (Ecuador)

Packard Electric Ireland Limited (Ireland)

Promotora de Partes Electronics Automotrices (Mexico)

P.T. Mesin Isuzu Indonesia (Indonesia)

Rimir, S.A. de C.V. (Mexico)

Rio Bravo Electricos, S.A. de C.V. (Mexico)

Senalizacion y Accesorios del Automovil Yorka, S.A. (Spain)

Shinsung Packard Company, Ltd. (S. Korea)

Sistemas Electricos y Commutadores, S.A. de C.V. (Mexico)

Sung San Company, Ltd. (Korea)

Suzuki Motor Co., Ltd. (Japan)

SUBSIDIARIES AND AFFILIATES OF GENERAL MOTORS CORPORATION (Cont.)

Tactical Truck Corporation (USA)

Teknowledge, Inc. (USA)

TEREX Equipment Limited (Scotland)

Vauxhall Motors Limited (England)

Vestiduras Fronterizas, S.A. de C.V. (Mexico)

View Engineering (USA)

Volvo GM Heavy Truck Corporation (USA)

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FED. R. EVID. 803(8)(C) 3, 4

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF PENNSYLVANIA

General Motors Corporation, having been served with a Petition for a Writ of Certiorari to the Supreme Court of Pennsylvania on behalf of Frederick P. Singer, respectfully offers this brief in opposition for consideration by the Court.

JURISDICTION

Petitioner has invoked the jurisdiction of this Court pursuant to 20 U.S.C. § 1254(1) [sic] and Rule 17 of the Rules of the Supreme Court of the United States. Respondent respectfully submits that this Court lacks jurisdiction to review the decree rendered by the Supreme Court of Pennsylvania as Petitioner does not draw in question the validity of a treaty or statute of the United States or of a statute of any State, and does not claim any title, right, privilege or immunity under the Constitution. 28 U.S.C.S. § 1257(a) (1988).

STATEMENT OF THE CASE

This action was instituted in June of 1976 in the Court of Common Pleas for Lehigh County on behalf of Frederick P. Singer and Robbins Investment Corporation. Singer sought recovery for the death of his son, Robbins for property damage to the vehicle in which young Singer was a passenger at the time of his death. Named as

defendants were General Motors Corporation and Bronsberg & Hughes Pontiac, Inc., the suppliers of the vehicle in question. General Motors Corporation subsequently joined Frederick Ball, the driver of the accident vehicle, as an additional defendant.

Singer advanced a theory of liability based upon the design of the power steering system with which the vehicle was equipped. According to that theory, the absence of an effective filter allowed contamination to reach and jam the system's working gears, rendering the steering temporarily inoperable at the precise moment the vehicle entered a curve at a speed well in excess of the posted limit. The jury accepted only the critique of the design, finding in response to special interrogatories that without a filter the power steering system was defective, but that the cause of the accident was the negligent operation of the vehicle by Frederick Ball.

Following the verdict Singer filed a motion for new trial asserting a variety of errors, among them the evidentiary ruling being challenged here. That ruling was necessitated by Singer's desire to offer into evidence documents consisting of in excess of 1,000 pages obtained from the National Highway Traffic and Safety Administration.

The agency had conducted its own investigation into consumer complaints of difficulties with the type of power steering system installed in the accident vehicle. Though presented with the opportunity to establish the elements of admissibility, counsel for Singer declined to proceed as to specific documents, attempting instead to

introduce the entire file. The court sustained an objection interposed by counsel for General Motors Corporation and excluded the documents from evidence.

That ruling was upheld by a three member panel of the Court of Common Pleas of Lehigh County, sitting *en banc*, and a three member panel of the Superior Court of Pennsylvania. The Supreme Court of Pennsylvania denied a petition seeking leave to appeal from the latter decision.

SUMMARY OF ARGUMENT

The Court lacks jurisdiction to review the judgment of the Supreme Court of Pennsylvania. Petitioner's only claimed federal question, the effect of Federal Rule of Evidence 803(8)(C), was not previously raised, and with good reason as federal rules are inapplicable to state court proceedings.

Assuming a jurisdictional basis does exist, the matter complained of is not of the character which merits the exercise of this Court's discretion. Petitioner raises an issue concerning an uncomplicated evidentiary ruling. In precluding the documents sought to be introduced, the trial judge merely applied elementary tests of trustworthiness and relevancy and found the evidence wanting in both areas.

The conclusion that the documents contained inadmissible hearsay does not conflict with this Court's recent decision in *Beech Aircraft Corporation v. Rainey*, 488 U.S.

___, 109 S.Ct. 439 (1988). Petitioner was not offering the result of a governmental investigation into the incident out of which his claim arose. He aimed instead to regale the jury with a series of unsubstantiated consumer complaints, none of which had the slightest bearing on the cause of that incident.

ARGUMENT

The thrust of Petitioner's argument is that the Pennsylvania courts which ruled on the admissibility of the NHTSA file relied on federal authority since overturned by the decision of this Court in *Beech Aircraft Corporation v. Rainey*, 488 U.S. ___, 109 S.Ct. 439 (1988). As raised by Petitioner, however, the issue is not one within the jurisdiction of this Court.

The federal provision alleged by Petitioner to be involved is Federal Rule of Evidence 803(8)(C). It is not at all clear in what fashion Rule 803(8)(C) is involved, as its scope plainly does not extend to proceedings in state courts. FED. R. EVID. 101. Consequently Petitioner's attempt to establish jurisdiction on that basis is ineffectual.

Other than Rule 803(8)(C) Petitioner has identified no treaty, no federal or state statute, and no right arising out of the Constitution as being connected in any way to the outcome of his wrongful death claim. Accordingly Petitioner has failed to meet the statutory jurisdictional criteria established for this Court. 28 U.S.C.S. § 1257(a) (1988).

Jurisdictional difficulties aside, the Petition fails to set forth an issue worthy of this Court's review. The ruling about which Petitioner complains was merely an exercise of sound judicial discretion applied to an ordinary evidentiary problem. Petitioner's assertions to the contrary notwithstanding, the state courts did not rely on now invalid federal authority in holding the proffered evidence inadmissible. The opinions make clear that elementary principles regarding hearsay and relevancy provided the basis for excluding the documents, and ample authority from both state and federal courts is cited for support.

Nor has Petitioner demonstrated a conflict with *Beech Aircraft*. That decision concerned a governmental investigation into the very incident which gave rise to the litigation, not so here. The file offered *en masse* at this trial described a number of unrelated consumer complaints. Petitioner wished to place only those complaints before the jury, for his cause would not have been aided by disclosing the opinion of the government investigators that there was no design defect in the power steering system. Leaving the decision of the Supreme Court of Pennsylvania undisturbed therefore will not violate the rationale underlying *Beech Aircraft*.

CONCLUSION

For the above reasons the Petition for a Writ of Certiorari should not be granted.

Respectfully submitted,

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